

AMENDMENT UNDER 37 CFR § 1.111
Serial No. 09/642,108

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REMARKS

A total of 113 claims remain in the present application. The foregoing amendments are presented in response to the Office Action mailed January 11, 2006, wherefore reconsideration of this application is requested. Applicants appreciate the Examiner granting time to discuss the Office Action and potential allowable amendments to the claims on April 6, 2006.

By way of the above-noted amendments, original independent claims 1, 41, 67 and 82 have been amended to more clearly define features of the present invention. Claims 5-7, 9, 11, 20-23, 27, 30, 31, 37, 47, 48, 50, 52, 61-64, 68, 71, 72, 78, 87-89, 91, 93, 102-105, 108, 111, 112 and 118 have been amended to be consistent with the independent claims. Claims 19, 60 and 101 have been cancelled and the dependencies of claim 20, 61 and 102 corrected.

In preparing the above-noted amendments, careful attention was paid to ensure that no new subject matter has been introduced. In particular, as discussed with the Examiner, the claims have been amended to define that bytes of the data stream are accumulated for the "payload data". In addition, the independent claims have been amended to identify that the PDU is forwarded through the broadband network to an egress gateway "irrespective of routing information contained within the data stream." Support for this amended claim language is found throughout the originally filed specification.

Referring now to the text of the Office Action:

- a) claim 82 stands objected to for an informality in the claim language;
- b) claims 19-23, 60-64 and 101-105 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out

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and distinctly claim the subject matter which Applicants regard as the invention;

- c) claims 1, 4-6, 8-10, 24-29, 41, 45-47, 49-51, 65-70, 82, 85-88, 90-92, 106-110, 122 and 123 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over Vargo et al. (USPN 6,477,164) in view of Ketcham (USPN 6,721,334);
- d) claims 11-18, 34-40, 52-59, 75-81, 93-100 and 115-121 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Vargo et al. (USPN 6,477,164) in view of Ketcham (USPN 6,721,334) as applied to 1, 26, 41 and 82, and further in view of Naudus (USPN 6,259,691);
- e) claims 30, 31, 71, 72, 111 and 112 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Vargo et al. 29, 70 and 110, and further in view of Lin et al. (USPN 6,606,306);
- f) claims 32, 33, 73, 74, 113 and 114 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Vargo et al. (USPN 6,477,164) in view of Ketcham (USPN 6,721,334) as applied to claims 27, 68, and 108, and further in view of Ohlsson et al. (USPN 6,452,950); and
- g) claims 7, 48 and 89 stand objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As an initial matter, Applicants appreciate the Examiner's indication of allowable subject matter in claims 7, 48 and 89. The Examiner's rejections of claims 19-23, 60-64 and 101-105 under 35 U.S.C. § 112 second paragraph and claims 1, 4-6, 8-18, 24-33, 41, 45-47, 48-59, 65-82, 85-88, 90-100, and 106-123 rejected under 35 U.S.C. § 103(a) are believed to be traversed by the above-noted claim amendments.

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Claim Objections

Claim 82 has been amended to address the informality identified by the Examiner.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 19, 60 and 101 have been cancelled. The dependencies of claims 20, 61 and 102 have been corrected. Applicants submit that the rejection to claims 19-23, 60-64 and 101-105 is now moot.

Rejections under 35 U.S.C. § 103(a)

With reference to the Examiner's claim rejections under 35 U.S.C. § 103(a), Applicants offer the following comments.

Amended independent claims 1, 41, 67 and 82 define methods and systems in which the PDU, which contains a container encapsulating payload data, is forwarded through the broadband packet network to an egress gateway irrespective of routing information contained within the data stream.

Vargo et al. teaches a system in which PSTN voice data is received at a network gateway, a destination gateway and destination transmux are identified based upon information contained in the voice packet, the destination gateway address and a destination transmux address are appended to the digital voice packet (see Abstract). The originating gateway digitally encodes the voice data received from the originating PSTN and divides the encoded voice data into a plurality of voice packets (col. 4 lines 6 to 9). The background of Vargo et al. states that the invention disclosed is directed to Voice over Internet systems based upon Voice Over Internet Protocols (VOIPs). In essence Vargo et al. provides a means for generating VOIP data which is different than the aim of present invention.

As stated by the Examiner, Vargo et al. "does not expressly disclose c) encapsulating the container within a protocol data unit (PDU) of the broadband packet

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network.” Although the Examiner does suggest that Vargo et al. does imply that “the sorted gateway packet is encapsulated with address information for transmission to the originating transmux (“encapsulated in a PDU”), this is never expressly disclosed” by Vargo. In addition, the Examiner states that “Vargo does not expressly disclose d) forwarding the PDU through the broadband packet network to an egress gateway since Vargo discloses that the gateway packet is broken apart en route to the egress gateway by transmuxes. Finally, Vargo does not disclose reversing this process by e) at the egress gateway, receiving sequential PDUs of the broadband packet network from the ingress gateway; f) extracting a respective container from each received PDU; and g) reconstructing the data stream using the respective container.”

Applicants submit that Vargo et al. teaches away from the present invention, which should be evident by the Examiner’s comments, and a person of skill in the art would therefore not deem the present invention obvious in view of Vargo et al. and Ketchum. In particular, Vargo et al. does not provide for encapsulating the container in a PDU as noted by the Examiner, rather Vargo et al. identifies that the voice packet, directly from the PSTN data stream, is extracted and modified and not encapsulated. The PSTN data stream is dissected and analyzed to retrieve routing information (“destination PSTN address 204” in Figs. 2-5) and appended to each PSTN voice packet (col. 5 lines 9 to 12) to create packets which are in essence VOIP packets. The received PSTN data in Vargo et al. is not encapsulated but reformatted into a PDU (see Figs. 2-5), which the Applicants submit teaches away from the present invention.

In contrast, the present invention provides for accumulating payload packet data comprising a predetermined number of successive bytes of a data stream respecting the data service independently of a communications protocol of the data stream. The payload data is encapsulated within a container which is then encapsulated within a PDU of the broadband network. The PDU is then forwarded through the broadband packet network to an egress gateway irrespective of routing information contained within the data stream. The contents

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of the data stream is essentially unaltered and is encapsulated. Applicants submit that this is not taught or suggested by Vargo et al.

Ketcham teaches aggregating packets from different sources if the packets share at least one common route element (see abstract). Differing packets are aggregated into a single data stream to conserve bandwidth. There is no suggestion of encapsulating a container in a PDU, rather Ketcham provides for combining multiple PDU of the same protocol by mere aggregation. Applicants submit that Ketcham does not provide the elements missing from Vargo et al. to render the present invention obvious.

The present invention provides for routing data services of a legacy data service through a broadband network where the service is not necessarily compatible with the underlying broadband network protocol. By encapsulating the payload data comprising a predetermined number of successive bytes of the data stream, the data service can be reconstructed at the egress gateway to the original format without modification to the actual content of the data stream. Applicants submit that the present invention as claimed is not taught or suggested by Vargo et al. or Ketcham, alone or in combination and respectfully requests that the Examiner's rejection be withdrawn.

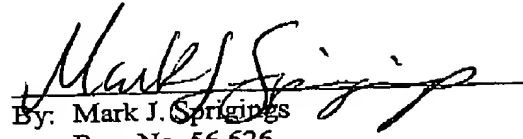
In light of the foregoing, it is believed that the present invention is clearly distinguishable over the teachings of Vargo et al. (USPN 6,477,164) in view of Ketcham (USPN 6,721,334). In addition, Applicants submit that the rejections to the independent claims based upon Vargo et al. in view of Ketcham further in view of Naudus or Lin et al. or Ohlsson et al. are moot in light of the preceding comments and the amendment to the independent claims. Favorable reconsideration and passage to issuance are solicited.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees

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required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our
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Respectfully submitted,
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